

COPYRIGHT ROYALTY JUDGES
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In re

**DISTRIBUTION OF SATELLITE
ROYALTY FUNDS**

**DOCKET NO. 22-CRB-0006 SD
(2021)**

**ORDER 01 GRANTING MOVING PARTIES' MOTION
FOR PARTIAL DISTRIBUTION OF 2021 SATELLITE ROYALTIES**

On March 12, 2024, representatives of certain groups of claimants (Moving Parties)¹ filed with the Copyright Royalty Judges (Judges) a Motion for Partial Distribution of 2021 satellite royalties deposited with the United States Copyright Office (Motion) (eCRB no. 41640). Specifically, the Moving Parties seek a distribution of 40% of the royalties deposited by satellite carriers for the compulsory license described in section 119, title 17, United States Code (Copyright Act).

The Judges published notice of the Motion in the Federal Register in accordance with section 801(b)(3)(C) of the Copyright Act seeking comment on the requested partial distribution.² The Judges received one comment in opposition to the proposal, from Worldwide Subsidy Group LLC (a Texas limited liability company) dba Multigroup Claimants (MGC) (Opposition) (eCRB no. 42274).

MGC's Opposition asserts that no distributions should be made to the Allocation Parties unless and until the Judges rule on Multigroup Claimants' pending motions for partial distribution, and that the Judges should not make any further distributions to a party until such party has remedied any instances of overpayment in prior proceedings. Opposition at 1-5.

Statutory Authorization for Partial Distributions of Funds in Controversy

Section 801(b)(3)(C) of the Copyright Act (Act) grants the Judges authority to authorize partial distributions of deposited royalties on the motion of an interested claimant at any time after claims are filed. That subparagraph provides:

Notwithstanding section 804(b)(8), the Copyright Royalty Judges, at any time after the filing of claims under section 111, 119, or 1007, may, upon motion of one or more of the claimants and after publication in the Federal Register of a request for responses to the motion from interested claimants, make a partial distribution of such fees, if, based upon all responses received during the 30-day period beginning on the date of such publication, the Copyright Royalty Judges conclude that no claimant entitled to receive such fees has stated a reasonable objection to the partial distribution, and all such claimants—

¹ The Moving Parties, which refer to themselves in the Motion as the Allocation Phase Parties, are Program Suppliers, Joint Sports Claimants, Commercial Television Claimants, Devotional Claimants, and the Music Claimants, who are comprised of the American Society of Composers, Authors and Publishers, SESAC Performing Rights, LLC, and Broadcast Music, Inc.

² 89 Fed. Reg. 21285 (Mar. 27, 2024) (eCRB no. 41781).

- (i) agree to the partial distribution;
- (ii) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the fees made under subparagraph (B);
- (iii) file the agreement with the Copyright Royalty Judges; and
- (iv) agree that such funds are available for distribution.

17 U.S.C. § 801(b)(3)(C).

Analysis and Findings

While MGC expresses its frustration with the lack of decisions on its own pending motions for partial distribution, it is mistaken in its view that motions are strictly addressed on a serial basis according to filing date. The Judges are not acting arbitrarily or with unexplained disparate treatment in their handling of the Motion in relation to allegedly similar motions for partial distribution. The fact is that each motion and opposition present their own issues for consideration, and some issues are more complex than others.

MGC also notes three instances of overpayments in prior proceedings, as well as the amount of time it has taken for overpayments to be addressed and remedied. Two such overpayments have been resolved, and any required repayment by the parties has occurred. *See* Opposition at 4-5 and December 5, 2022 Order Directing Final Distribution of Cable Royalties for 2000, 2001, 2002, and 2003, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) (Remand) (eCRB no. 27348) (resulting 1/30/2023 distributions reflected at <https://copyright.gov/licensing/distribution-fund.pdf> at 18-21). Efforts to recover the remaining overpayment from the parties are proceeding apace. *See* Opposition at 3 n.3 (citing the Judges' order of March 18, 2024, in Docket No. 2012-6 CRB CD 2004-2009 directing recovery of that overpayment (eCRB no. 41702)).

The Judges also observe that the requested partial distribution of 40% of the 2021 satellite royalty funds is a significantly lower percentage than that which was previously requested and granted in the case of partial distributions in several of the proceedings cited regarding overpayment concerns. *See* Motion at 3-4. The Judges find that despite the stated concerns regarding overpayment involving prior distribution proceedings, the Motion's request for a 40% partial distribution is reasonable and appropriate.

Having considered the Motion and Opposition in their entirety, including the record of ancillary proceedings referenced therein, the Judges find none of the assertions in the Opposition represents a reasonable objection to the Motion.

The deadline for filing claims for 2021 satellite royalties has passed. The Moving Parties represent that they are willing to sign a disgorgement agreement and file it with the Judges. Motion at 2-3. The Moving Parties also represent that in prior proceedings the Judges have made partial distributions of 40% or more of deposited royalty funds and that the remaining funds on deposit have been sufficient in those proceedings to make appropriate final distributions after resolution of any controversies. *See* Motion at 3-5.

In light of the Moving Parties' representation that they agree to comply with all stipulations regarding a partial distribution ordered pursuant to Section 801(b)(3)(C), and the Judges having found, as stated above, that the Opposition filed by MGC has not stated a

reasonable objection to the partial distribution, the Judges determine that distribution of 40% of the 2021 satellite royalty funds to the Moving Parties is reasonable and appropriate. Therefore, the Judges **GRANT** the Motion.

The Judges **ORDER** that 40% of the royalties held in the 2021 satellite royalty fund be distributed to the Office of the Commissioner of Baseball, which has agreed to serve as the common agent for the distribution of royalties among individual Moving Parties pursuant to a confidential agreement reached among the Moving Parties. *See* Motion at 5-6.

The Copyright Office shall make the distribution **PROVIDED THAT** each of the parties receiving a share of these funds provides to the Judges, with a copy to the Copyright Office, a signed agreement in the form required by the Copyright Office stating that the recipient shall repay to the Copyright Office any overpayment that results from the distribution of these funds, together with interest according to the amount that would have accrued if the principal had remained in the fund. The signed repayment agreements and all pertinent information to affect the transfer of funds must be provided to the Licensing Section of the Copyright Office no later than May 30, 2024. The distribution shall take place as soon as practicable following receipt of the signed repayment agreements and maturation of the relevant investments, on or after June 17, 2024.

SO ORDERED.

David P. Shaw
Chief Copyright Royalty Judge

Dated: May 3, 2024.